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on March 3, 2000

TOWNSEND and TOWNSEND and CREW LLP

By Jennifer K. Hardin
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PATENT

Attorney Docket No. 018422-000210

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Boles *et al.*

Application No.: 09/336,609

Filed: June 18, 1999

For: **DETECTION OF NON-VIRAL ORGANISMS
WITH SRP RNA**

Examiner: Einsmann, J.

Art Unit: 1655

RESPONSE TO RESTRICTION
REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the restriction requirement mailed February 4, 2000, Applicants elect to prosecute Group I, claims 1-43, drawn to methods for detection of a non-viral organism.

The foregoing election is made with traverse, as the two groups set forth by the Examiner all stem from a common concept and theory, and are thus related. The Examiner alleges that the two inventions are distinct, as the product (kit) can be used in a materially different process of using. In particular, the Examiner states that the kits of Group II could be used for unspecified but "different" detection methods, or to synthesize polypeptides.

Applicants respectfully point out that the probes of the instant invention correspond to SRP RNA (signal recognition particle RNA) and do not encode a protein. The kits

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therefore cannot be used to synthesize polypeptides. In addition, use of the probes for "different" detection methods would not constitute a materially different process of using, as the probes would only be used to detect SRP RNA using hybridization-based detection methods. Hybridization-based detection methods are encompassed by the method claims of Group I.

As such, prosecution of the claims of Groups I-II would not place a substantially greater burden on the Examiner. Applicants therefore respectfully request that the Examiner withdraw the Restriction Requirement and consider all the claims together.

If the Examiner has any questions regarding Applicant's election, or if the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415)576-0200.

Respectfully submitted,



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